

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

CLINT PHILLIPS, III, et al.,)
)
Plaintiffs,)
)
v.) No. 4:24-cv-117 JSD
)
KEEFE COMMISSARY SERVICES, et al.,)
)
Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court upon review of self-represented Plaintiff's handwritten three-page complaint. ECF No. 1. The complaint is defective because it was not drafted on the Court's form. *See* E.D. Mo. Local Rule 2.06(A) ("All actions brought by self-represented plaintiffs or petitioners should be filed on Court-provided forms where applicable."). In addition, Plaintiff has neither paid the \$405 filing fee nor filed a motion for leave to proceed *in forma pauperis*.¹ Because Plaintiff is a self-represented litigant, the Court will allow him twenty-one (21) days from the date of this Memorandum and Order to file an amended complaint on the Court's form, and file a motion to proceed *in forma pauperis* or pay the Court's filing fee in full.

¹A motion for leave to proceed *in forma pauperis* should be filed on a Court form accompanied by a certified copy of Plaintiff's inmate account statement for the six-month period immediately preceding the filing of the complaint. *See* 28 U.S.C. § 1915(a)(2); E.D. Mo. Local Rule 2.05(A). Alternatively, Plaintiff may pay the full \$405 filing fee.

However, a review of this Court's records shows that Plaintiff has previously brought at least three civil actions that were dismissed on grounds that they were frivolous, malicious, or failed to state a claim upon which relief may be granted. *See Phillips v. St. Louis City Police Officers*, No. 4:17-cv-1637-HEA (E.D. Mo.) (dismissed Jan. 10, 2018, under 28 U.S.C. § 1915(e)(2)(B)(i)); *Phillips v. Romeo*, No. 4:17-cv-1636-NAB (E.D. Mo.) (dismissed Aug. 4, 2017, under 28 U.S.C. § 1915(e) as frivolous); *Phillips v. City of St. Louis*, No. 4:11-cv-791-CEJ (E.D. Mo.) (dismissed May 19, 2011, under 28 U.S.C. § 1915(e)(2)(B)). Therefore, the Court cannot permit Plaintiff to proceed *in forma pauperis* unless he "is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g). Nothing in the currently filed pleading indicates that Plaintiff qualifies under the imminent-danger exception.

Plaintiff is warned that the filing of an amended complaint completely replaces his original pleading, so Plaintiff must include each and every one of the claims he wishes to pursue in the amended complaint. *See, e.g., In re Wireless Telephone Federal Cost Recovery Fees Litigation*, 396 F.3d 922, 928 (8th Cir. 2005). Furthermore, Plaintiff's allegations may not be conclusory. Instead, Plaintiff must plead facts that show how all defendants are personally involved in or directly responsible for the alleged harm. *See Martin v. Sargent*, 780 F.2d 1334, 1338 (8th Cir. 1985). If Plaintiff wishes to sue a defendant in his or her individual capacity, Plaintiff must specifically say so in the amended complaint. If Plaintiff fails to sue a defendant in his or her individual capacity, this action may be subject to dismissal as to that defendant. All of Plaintiff's claims should be clearly set forth in the "Statement of Claim" section of the Court-provided form.

If Plaintiff fails to file an amended complaint on the Court's form within **twenty-one (21) days** and in compliance with the Court's instructions, the Court will dismiss this action without prejudice and without further notice. Furthermore, if Plaintiff fails to file a motion to proceed *in forma pauperis* or pay the Court's filing fee in full, within **twenty-one (21) days**, the Court will dismiss this action without prejudice and without further notice.

Accordingly,

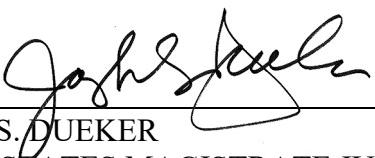
IT IS HEREBY ORDERED that the Clerk of Court shall mail to Plaintiff blank copies of the Court's 'Prisoner Civil Rights Complaint Under 42 U.S.C. § 1983' and 'Application to Proceed in District Court without Prepaying Fees or Costs' forms.

IT IS FURTHER ORDERED that, within **twenty-one (21) days** of the date of this Order, Plaintiff shall file an amended complaint on the Court-provided form and in compliance with the Court's instructions.

IT IS FURTHER ORDERED that, within **twenty-one (21) days** of the date of this Order, Plaintiff shall either pay the full filing fee or submit a completed ‘Application to Proceed in District Court without Prepaying Fees or Costs’ form. If Plaintiff files a motion to proceed *in forma pauperis*, he shall also submit a certified copy of his inmate account statement for the six-month period immediately preceding the filing of the complaint.

IT IS FURTHER ORDERED that Plaintiff’s failure to timely comply with this Order shall result in the dismissal of this action, without prejudice and without further notice.

Dated this 6th day of February, 2024.



JOSEPH S. DUEKER
UNITED STATES MAGISTRATE JUDGE